

AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 367

Introduced by Assembly Member De Leon

February 14, 2007

An act to amend Sections 1463.007 and 1463.010 of, and to add Section 1463.02 to, the Penal Code, and to amend Section 19280 of the Revenue and Taxation Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 367, as amended, De Leon. Court-ordered debts.

(1) Existing law authorizes any county or court, which implements a comprehensive program to identify and collect various delinquent fees and penalties, to deduct and deposit in the county treasury or the trial court operations fund the cost of operating that program from any revenues collected prior to distributing the revenues to other governmental entities, as specified.

This bill would specify that those fees include public defender and jail booking fees.

(2) Existing law requires the Judicial Council to adopt guidelines for a comprehensive program concerning the collection of moneys owed for fees and other penalties imposed by court order, after considering the recommendations of a collaborative court-county working group. Existing law requires that working group to survey courts and counties regarding current collection efforts and make recommendations to the Judicial Council regarding collection methods.

This bill would delete the above provisions relating to the working group. The bill would require the Judicial Council to establish a task force to evaluate criminal *and traffic-related* court-ordered debts

imposed against adult and juvenile offenders. Among other things, the task force would be required to make recommendations to the Judicial Council no later than December 31, 2009, regarding the priority in which court-ordered debts should be satisfied.

(3) Under existing law, unpaid fines and other penalties for criminal offenses imposed by a court upon a person or entity in an amount less than \$250, except for certain traffic offenses, may be referred to the Franchise Tax Board for collection after being delinquent for 90 days.

This bill would decrease the above amount required to refer those unpaid debts to the Franchise Tax Board from \$250 to \$100. The bill would also delete the exemption for traffic offenses.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1463.007 of the Penal Code, as amended
2 by Section 2 of Chapter 380 of the Statutes of 2004, is amended
3 to read:
4 1463.007. Notwithstanding any other provision of law, any
5 county or court that implements or has implemented a
6 comprehensive program to identify and collect delinquent fees,
7 fines, forfeitures, penalties, and assessments, including, but not
8 limited to, public defender and jail booking fees, with or without
9 a warrant having been issued against the alleged violator, if the
10 base fees, fines, forfeitures, penalties, and assessments are
11 delinquent, may deduct and deposit in the county treasury or in
12 the trial court operations fund the cost of operating that program,
13 excluding capital expenditures, from any revenues collected thereby
14 prior to making any distribution of revenues to other governmental
15 entities required by any other provision of law. Any county or
16 court may establish a minimum base fee, fine, forfeiture, penalty,
17 or assessment amount for inclusion in the program. This section
18 applies to costs incurred by a court or a county on or after June
19 30, 1997, and prior to the implementation of a time payments
20 agreement, and shall supersede any prior law to the contrary. This
21 section does not apply to a defendant who is paying fees, fines,
22 forfeitures, penalties, or assessments through time payments, unless
23 he or she is delinquent in making payments according to the
24 agreed-upon payment schedule. For purposes of this section, a

1 comprehensive collection program is a separate and distinct
2 revenue collection activity and shall include at least 10 of the
3 following components:

- 4 (a) Monthly bill or account statements to all debtors.
- 5 (b) Telephone contact with delinquent debtors to apprise them
6 of their failure to meet payment obligations.
- 7 (c) Issuance of warning letters to advise delinquent debtors of
8 an outstanding obligation.
- 9 (d) Requests for credit reports to assist in locating delinquent
10 debtors.
- 11 (e) Access to Employment Development Department
12 employment and wage information.
- 13 (f) The generation of monthly delinquent reports.
- 14 (g) Participation in the Franchise Tax Board's Interagency
15 Intercept Collections Program.
- 16 (h) The use of Department of Motor Vehicle information to
17 locate delinquent debtors.
- 18 (i) The use of wage and bank account garnishments.
- 19 (j) The imposition of liens on real property and proceeds from
20 the sale of real property held by a title company.
- 21 (k) The filing of a claim or the filing of objections to the
22 inclusion of outstanding fines and forfeitures in bankruptcy
23 proceedings.
- 24 (l) Coordination with the probation department to locate debtors
25 who may be on formal or informal probation.
- 26 (m) The initiation of driver's license suspension actions where
27 appropriate.
- 28 (n) The capability to accept credit card payments.
- 29 (o) Participation in the Franchise Tax Board's Court-Ordered
30 Debt Collections Program.
- 31 (p) Contracting with one or more private debt collectors.

32 (q) The use of local, regional, state, or national skip tracing or
33 locator resources or services to locate delinquent debtors.

34 SEC. 2. Section 1463.010 of the Penal Code is amended to
35 read:

36 1463.010. The uniform imposition and enforcement of
37 court-ordered debts is recognized as an important element of
38 California's judicial system. Prompt, efficient, and effective
39 imposition and collection of court-ordered fees, fines, forfeitures,
40 penalties, restitution, and assessments ensures the appropriate

1 respect for court orders. To provide for this prompt, efficient, and
2 effective collection:

3 (a) The Judicial Council shall adopt guidelines for a
4 comprehensive program concerning the collection of moneys owed
5 for fees, fines, forfeitures, penalties, and assessments imposed by
6 court order. As part of its guidelines, the Judicial Council may
7 establish standard agreements for entities to provide collection
8 services. As part of its guidelines, the Judicial Council shall include
9 provisions that promote competition by and between entities in
10 providing collection services to courts and counties. The Judicial
11 Council may delegate to the Administrative Director of the Courts
12 the implementation of the aspects of this program to be carried out
13 at the state level.

14 (b) The courts and counties shall maintain the collection program
15 that was in place on January 1, 1996, unless otherwise agreed to
16 in writing by the court and county. The program may wholly or
17 partially be staffed and operated within the court itself, may be
18 wholly or partially staffed and operated by the county, or may be
19 wholly or partially contracted with a third party. In carrying out
20 this collection program, each superior court and county shall
21 develop a cooperative plan to implement the Judicial Council
22 guidelines. In the event that a court and a county are unwilling or
23 unable to enter into a cooperative plan pursuant to this section,
24 prior to the arbitration procedures required by subdivision (e) of
25 Section 1214.1 the court or the county may request the continuation
26 of negotiations with mediation assistance as mutually agreed upon
27 and provided by the Administrative Director of the Courts and the
28 California Association of Counties.

29 (c) Each superior court and county shall jointly report to the
30 Judicial Council, as provided by the Judicial Council and not more
31 than once a year, on the effectiveness of the cooperative superior
32 court and county collection program. The Judicial Council shall
33 report to the Legislature, as appropriate, on the effectiveness of
34 the program.

35 (d) The Judicial Council may, when the efficiency and
36 effectiveness of the collection process may be improved, facilitate
37 a joint collection program between superior courts, between
38 counties, or between superior courts and counties.

39 (e) The Judicial Council may establish, by court rule, a program
40 providing for the suspension and nonrenewal of a business and

1 professional license if the holder of the license has unpaid fees,
2 fines, forfeitures, penalties, and assessments imposed upon them
3 under a court order. The Judicial Council may provide that some
4 or all of the superior courts or counties participate in the program.
5 Any program established by the Judicial Council shall ensure that
6 the licensee receives adequate and appropriate notice of the
7 proposed suspension or nonrenewal of his or her license and has
8 an opportunity to contest the suspension or nonrenewal. The
9 opportunity to contest may not require a court hearing.

10 (f) Notwithstanding any other provision of law, the Judicial
11 Council, after consultation with the Franchise Tax Board with
12 respect to collections under Section 19280 of the Revenue and
13 Taxation Code, may provide for an amnesty program involving
14 the collection of outstanding fees, fines, forfeitures, penalties, and
15 assessments, applicable either statewide or within one or more
16 counties. The amnesty program shall provide that some or all of
17 the interest or collections costs imposed on outstanding fees, fines,
18 forfeitures, penalties, and assessments may be waived if the
19 remaining amounts due are paid within the amnesty period.

20 SEC. 3. Section 1463.02 is added to the Penal Code, to read:

21 1463.02. (a) The Judicial Council shall establish a task force
22 to evaluate criminal *and traffic-related* court-ordered debts imposed
23 against adult and juvenile offenders. The task force shall be
24 comprised of the following members:

25 (1) Two members appointed by the California State Association
26 of Counties.

27 (2) Two members appointed by the League of California Cities.

28 (3) Two court executives, two judges, and two Administrative
29 Office of the Courts employees appointed by the Judicial Council.

30 (4) One member appointed by the Controller.

31 (5) One member appointed by the Franchise Tax Board.

32 (6) One member appointed by the California Victim
33 Compensation and Government Claims Board.

34 (7) One member appointed by the Department of Corrections
35 and Rehabilitation.

36 (8) One member appointed by the Department of Finance.

37 (9) One member appointed by each house of the Legislature.

38 (b) The Judicial Council shall designate a chairperson for the
39 task force. The task force shall, among other duties, do all of the
40 following:

1 (1) Identify all criminal and traffic-related court-ordered fees,
2 fines, forfeitures, penalties, and assessments imposed under law.

3 (2) Identify the distribution of revenue derived from those debts.

4 (3) Consult with state and local entities that would be affected
5 by a simplification and consolidation of criminal *and traffic-related*
6 court-ordered debts.

7 (4) Evaluate and make recommendations to the Judicial Council
8 for consolidating and simplifying the imposition of criminal *and*
9 *traffic-related* court-ordered debts and the distribution of the
10 revenue derived from those debts with the goal of improving the
11 process for those entities that benefit from the revenues, but with
12 no intention to ~~redistribute funds~~ *of redistributing funds in a way*
13 that will have a detrimental effect on those entities.

14 (c) The task force also shall evaluate and make recommendations
15 to the Judicial Council on or before December 31, 2009, regarding
16 the priority in which court-ordered debts should be satisfied and
17 the use of comprehensive collection programs authorized pursuant
18 to Section 1463.007, including associated cost-recovery practices.

19 SEC. 4. Section 19280 of the Revenue and Taxation Code is
20 amended to read:

21 19280. (a) (1) Fines, state or local penalties, forfeitures,
22 restitution fines, restitution orders, or any other amounts imposed
23 by a superior or municipal court of the State of California upon a
24 person or any other entity that are due and payable in an amount
25 totaling no less than one hundred dollars (\$100), in the aggregate,
26 for criminal offenses, including all offenses involving a violation
27 of the Vehicle Code, may, no sooner than 90 days after payment
28 of that amount becomes delinquent, be referred by the superior
29 court, the county, or the state to the Franchise Tax Board for
30 collection under guidelines prescribed by the Franchise Tax Board.

31 (2) For purposes of this subdivision:

32 (A) The amounts referred by the superior court, the county, or
33 state under this section may include any amounts that a government
34 entity may add to the court-imposed obligation as a result of the
35 underlying offense, trial, or conviction. For purposes of this article,
36 those amounts shall be deemed to be imposed by the court.

37 (B) Restitution orders may be referred to the Franchise Tax
38 Board only by a government entity, as agreed upon by the
39 Franchise Tax Board, provided that all of the following apply:

1 (i) The government entity has the authority to collect on behalf
2 of the state or the victim.

3 (ii) The government entity shall be responsible for distributing
4 the restitution order collections, as appropriate.

5 (iii) The government entity shall ensure, in making the referrals
6 and distributions, that it coordinates with any other related
7 collection activities that may occur by superior courts, counties,
8 or other state agencies.

9 (iv) The government entity shall ensure compliance with laws
10 relating to the reimbursement of the State Restitution Fund.

11 (C) The Franchise Tax Board shall establish criteria for referral,
12 which shall include setting forth a minimum dollar amount subject
13 to referral and collection.

14 (b) The Franchise Tax Board, in conjunction with the Judicial
15 Council, shall seek whatever additional resources are needed to
16 accept referrals from all 58 counties or superior courts.

17 (c) Upon written notice to the debtor from the Franchise Tax
18 Board, any amount referred to the Franchise Tax Board under
19 subdivision (a) and any interest thereon, including any interest on
20 the amount referred under subdivision (a) that accrued prior to the
21 date of referral, shall be treated as final and due and payable to the
22 State of California, and shall be collected from the debtor by the
23 Franchise Tax Board in any manner authorized under the law for
24 collection of a delinquent personal income tax liability, including,
25 but not limited to, issuance of an order and levy under Article 4
26 (commencing with Section 706.070) of Chapter 5 of Division 2
27 of Title 9 of Part 2 of the Code of Civil Procedure in the manner
28 provided for earnings withholding orders for taxes.

29 (d) (1) Part 10 (commencing with Section 17001), this part,
30 Part 10.7 (commencing with Section 21001), and Part 11
31 (commencing with Section 23001) shall apply to amounts referred
32 under this article in the same manner and with the same force and
33 effect and to the full extent as if the language of those laws had
34 been incorporated in full into this article, except to the extent that
35 any provision is either inconsistent with this article or is not
36 relevant to this article.

37 (2) Any information, information sources, or enforcement
38 remedies and capabilities available to the court or the state referring
39 to the amount due described in subdivision (a), shall be available
40 to the Franchise Tax Board to be used in conjunction with, or

1 independent of, the information, information sources, or remedies
2 and capabilities available to the Franchise Tax Board for purposes
3 of administering Part 10 (commencing with Section 17001), this
4 part, Part 10.7 (commencing with Section 21001), or Part 11
5 (commencing with Section 23001).

6 (e) The activities required to implement and administer this part
7 shall not interfere with the primary mission of the Franchise Tax
8 Board to administer Part 10 (commencing with Section 17001)
9 and Part 11 (commencing with Section 23001).

10 (f) For amounts referred for collection under subdivision (a),
11 interest shall accrue at the greater of the rate applicable to the
12 amount due being collected or the rate provided under Section
13 19521. When notice of the amount due includes interest and is
14 mailed to the debtor and the amount is paid within 15 days after
15 the date of notice, interest shall not be imposed for the period after
16 the date of notice.

17 (g) In no event shall a collection under this article be construed
18 as a payment of income taxes imposed under Part 10 (commencing
19 with Section 17001) or Part 11 (commencing with Section 23001).